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राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 31 दिसम्बर, 1977/10 पौष, 1899

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATIONS

Simla-171004, the 23rd December, 1977

No. 1-60/77-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly, 1973, the

Himachal Pradesh Climbing Trekking Porters (Regulation of Employment) Bill, 1977 (Bill No. 17 of 1977), after having been introduced in the Assembly on the 23rd December, 1977, is hereby published in the Gazette.

Bill No. 17 of 1977.

THE HIMACHAL PRADESH CLIMBING/TREKKING PORTERS (REGULATION OF EMPLOYMENT) BILL, 1977

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to regulate the supply of porters to the climbing/trekking parties visiting Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India as follows:—

1 (1) This Act may be called the Himachal Pradesh Climbing/Trekking Porters (Regulation of Employment) Act, 1977.

(2) It extends to the whole of the State of Himachal Pradesh.

Short title,
extent and
commence-
ment.

(3) It shall come into force with effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf and different dates may be appointed for different provisions of the Act and for different areas of the State.

2. In this Act, unless the context otherwise requires,—

- (a) “competent authority” means the Director Mountaineering Institute Manali and includes any other officer who may be appointed by the State Government to function as the competent authority under this Act, by notification published in the Official Gazette;
- (b) “employer” when used in relation to mountaineering expedition, means the person who has ultimate control over the affairs of the expedition, and when the affairs of any expedition are entrusted to any person (whether called a managing agent, manager, superintendent or by any other name) such other person shall be deemed to be employer in relation to that expedition;
- (c) “institute” means the Mountaineering Institute Manali, Kulu district, Himachal Pradesh;
- (d) “porter” means a person employed to assist the climbing/trekking parties visiting Himachal Pradesh in the operations connected with climbing the peaks, for hire or reward, whether directly or through any agency, to do any work skilled/unskilled or manual, but does not include a person employed for assisting climbing operations primarily in managerial or clerical capacity or as medical attendant for the members of the mountaineering expedition;
- (e) “qualified medical practitioner” means a person holding a qualification granted by an authority specified in the schedule to the

Definitions.

Indian Medical Degrees Act, 1916 or specified in the schedule to the Indian Medical Council Act, 1956; and

7 of 1916
102 of 1956

(f) "State Government" means the Government of Himachal Pradesh.

Employment of porters for assisting climbing and trekking parties.

3. (1) No porter, who is not registered with the Institute and certified by the competent authority to be fit to be employed for assisting the climbing operation shall be employed or permitted to be employed as a porter to assist the climbing/trekking parties visiting Himachal Pradesh.

(2) Every climbing/trekking party visiting Himachal Pradesh shall inform the competent authority about its plan/programme for leading the mountaineering expedition along with its requirements of porters and the competent authority shall recommend the suitable porters from the register of porters maintained in his office for employment as porters.

Qualifications for registration of porters.

4. No porter shall be eligible for registration under this Act,—

- (a) who has not completed his 18 years age;
- (b) who has not been granted a medical certificate certifying that he is fit for being engaged in climbing operation on high altitudes by a qualified medical practitioner to whom the porter is referred for medical examination by the competent authority; and
- (c) whose presence in the area of climbing operations is considered prejudicial to the public interest by the District Magistrate, within whose territorial jurisdiction such area of climbing operations lies.

Application for the registration of porters.

5. (1) The person who desires to work as porter to assist the climbing/trekking parties visiting Himachal Pradesh, shall make an application to the competent authority, for the registration of his name in the "Register of Porters" to be maintained by such authority.

(2) Every application under sub-section (1) shall be made in the prescribed form and shall be accompanied by such fees as may be prescribed.

(3) On the receipt of the application under sub-section (1) the competent authority shall,—

- (a) refer the applicant to a qualified medical practitioner to ensure that the applicant is fit to work as porter at high altitudes; and
- (b) get the antecedents of the applicant verified and ensure that the District Magistrate has no objection with regards to the presence of the applicant in the area of climbing operations.

(4) The competent authority if after holding such enquiry, as it thinks fit, is satisfied that the applicant is fit to work as porter, shall register his name as porter for a period of one year in the first instance and shall issue him the certificate of registration, subject to such conditions as it may deem fit:

Provided that no application for registration under this section shall be rejected by the competent authority, unless the applicant has been afforded a reasonable opportunity of being heard and the reasons for rejection have been recorded in the orders so passed by the competent authority.

(5) The registration certificate issued under sub-section (4) shall be valid for one year and thereafter it shall be renewed by the competent authority from time to time subject to such conditions as it may deem fit for a period not exceeding one year at a time on payment of prescribed renewal fee, and on the satisfaction of the competent authority that the applicant has not ceased to be qualified as porter under the provisions of this Act.

(6) The registration certificate if not renewed within a period of thirty days after the expiration of the period of certificate already issued, or renewed, shall be deemed to have lost its validity.

(7) Where a registration certificate, issued under this section is lost, destroyed or mutilated, a duplicate may be granted on payment of the prescribed fee.

6. After considering the facts stated by the applicant in his application and the medical certificate issued by the qualified medical practitioner under sub-section (3) of section 5, the competent authority shall be competent to classify the applicant in any of following categories of porters and cause the name of the applicant registered in the relevant register to be maintained by him:—

Classes of porters.

- (a) Class 'A'—to assist parties climbing/trekking any height;
- (b) Class 'B'—to assist parties climbing/trekking heights not exceeding 19,000 feet;
- (c) Class 'C'—to assist parties climbing/trekking heights not exceeding 13,500 feet.

7. (1) Every porter registered under this Act shall be issued, in the form, as may be prescribed, an identity card by the competent authority.

Issue of the identity cards to the registered porters.

(2) The porter shall carry with him his identity card throughout the period of his employment and shall produce the same for inspection as and when he is required to do so by the competent authority.

8. (1) A certificate of registration of a porter may be withdrawn or cancelled by the competent authority,—

Cancellation of registration.

- (i) if the competent authority is satisfied that certificate has been obtained by fraud or mistake; or
- (ii) if, after the registration of the porter, the certifying medical practitioner has revoked the certificate of fitness granted or renewed by him to the porter on the basis of which the registration has been effected; or
- (iii) if, on a reference made by the competent authority under section 10 a qualified medical practitioner declares that the porter is not fit to work as porter on the high altitudes; or
- (iv) if the presence of the porter is considered to be prejudicial to the public interest by the District Magistrate, within whose territorial jurisdiction the local limits or major part of the area covered by the registration certificate falls; or
- (v) if, in the opinion of the competent authority, the porter is guilty of misconduct, or wilful default or negligence in discharge of his obligations under the terms of his employment and in the opinion

of the competent authority, not fit to be engaged or permitted to be engaged for assisting the climbing/trekking parties; or

(vi) at the porter's own request:

Provided that not less than 15 days previous notice specifying the ground on which it is proposed to withdraw or cancel the certificate of registration, shall be given by the competent authority to the porter, unless the withdrawal or cancellation of the registration is at the request of the porter himself.

(2) As and when the certificate of registration is withdrawn or cancelled by the competent authority under sub-section (1) the porter shall surrender his certificate of registration and the identity card issued to him under this Act, or the rules framed thereunder, within a period of 15 days after the date of such cancellation.

Certificate
of fitness.

9. (1) A certificate of fitness granted or renewed, for the purposes of clause (b) of section 4,—

(a) shall be valid only for a period of twelve months from the date thereof, and

(b) shall be subject to specified conditions in regard to employment generally or the nature of work in which the porter may be employed or permitted to be employed.

(2) The certifying medical practitioner shall revoke a certificate granted or renewed by him, if in his opinion, the holder of it is no longer fit for work in the capacity stated therein.

(3) Where a certifying medical practitioner refuses to grant or renew a certificate or revokes a certificate, he shall, if so required by the porter concerned, state his reasons for so doing.

(4) Where a certificate under section 5, with reference to any porter is granted or renewed subject to such conditions as are referred to in clause (b) of sub-section (1) of section 9, the porter shall not be required to attend or be allowed to attend his work as porter except in accordance with those conditions.

Power to
require me-
dical exa-
mination.

10. (1) Where a competent authority is of the opinion that any person employed as porter to assist the climbing/trekking parties,—

(a) is suffering from an infectious or contagious disease; or

(b) is without a certificate of fitness; or

(c) is a person with a certificate of fitness, but no longer fit to work in the capacity stated in the certificate;

it may serve on the manager of the climbing/trekking party, a notice requiring that such person shall be examined by a qualified medical practitioner to whom the competent authority may refer for medical examination and such person shall not be employed or permitted to work as porter, until he has been examined and has been certified that he has been granted a fresh certificate of fitness.

(2) Every certificate which has been granted by a qualified medical practitioner on a reference under sub-section (1) shall for the purposes of this Act be conclusive evidence of the matters stated therein.

11. Where it appears to the competent authority, after such enquiry as it thinks fit to make, that any porter employed for the assistance of the climbing/trekking parties, has been recruited otherwise than in accordance with the provisions of this Act, the competent authority may direct that such porter shall be discharged and returned to his home by and at the cost of the employer.

Power to return improperly recruited porters.

12. (1) The State Government may, by notification in the Official Gazette,—

Fixation or revision of rates of wages.

(a) fix rates of wages in respect of working porters and in respect of different localities and different conditions of work, different rates of wages may be fixed;

(b) revise, from time to time, at such intervals as it may think fit, the rates of wages fixed under this section.

(2) The rates of wages may be fixed or revised by the State Government in respect of working porters for time work or piece work.

(3) The rates of wages so fixed shall be binding on all the employers and working porters and every porter shall be entitled to be paid wages at a rate which shall, in no case, be less than the rate of wages fixed under sub-section (1).

(4) Nothing contained in this section shall be construed to preclude any employer from entering into an agreement with a porter for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled to under this Act.

(5) All wages shall be paid in current coin or currency notes, or in both.

13. (1) There shall be provided and maintained by the employer so as to be readily accessible such medical facilities for the porters at such operating centres and halting stations as may be prescribed by the competent authority.

Medical facilities.

(2) There shall be provided or maintained by the employer so as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents with the climbing expedition.

14. No fee or charge shall be realised from any porter in respect of any arrangements or facilities to be provided or any equipment or appliance to be supplied by the employer.

No charge for facilities and conveniences.

15. Whenever there occurs in or about the area of operations,—

Notice to be given of accidents.

(a) an accident causing loss of life or serious injury; or

(b) a breakage of ropes, chains, or other gear by which persons or materials are lowered or raised; or

(c) an over winding of cages or other means of conveyances in any shaft while persons or materials are being lowered or raised; or

(d) a premature collapse of any part of workings etc.; or

(e) any other accident,

the employer, agent or manager of the expedition shall give immediate notice to the competent authority giving full account of the occurrence.

Employer's liability for compensation for injury

* 16. If personal injury is caused to a porter by accident arising out of his employment as porter or in the course of his training for employment as porter, his employer shall be liable to pay compensation and such compensation shall be assessed on the scale of rates of compensation prescribed for similar injuries under the Workman's Compensation Act, 1923.

8 of 1923

Penalties.

17. If any person contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act, he shall, on conviction by a Magistrate, be liable to be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to three hundred rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

Power to make rules.

18. (1) The State Government may make rules for the purpose of carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for,—

- (a) the form of register of porters to be maintained by the competent authority under section 3;
- (b) the form of applications for the registration of porters or applications for renewal of registration of certificates under section 5, the particulars it may contain, the fees which should accompany it and the manner of depositing such fees;
- (c) the form of certificate of registration to be issued under sub-section (4) of section 5;
- (d) the form of identity card to be issued to the porter under section 7;
- (e) the conditions in regard to employment generally or the nature of work in which the porters may be employed or permitted to be employed;
- (f) the fixation or revision of rates of wages in respect of the working porters under section 12; and
- (g) any other matter which has to be, or may be, prescribed under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days, which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in any rule or decides that the rule should not be made, the rule shall have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

At present there is no law to regulate the employment of porters for assisting the climbing/trekking parties visiting Himachal Pradesh. In order to ensure the supply of porters to the climbing/trekking parties in Himachal and to regulate their conditions of employment, it is desirable to enact the law.

This Bill seeks to achieve the aforesaid object.

SIMLA:
the 23rd December, 1977.

SHANTA KUMAR,
Chief Minister.

FINANCIAL MEMORANDUM

No additional expenditure out of the Government revenue is involved for the enforcement of the provisions of the Bill, as no additional establishment is required to be provided. The existing staff will be sufficient for giving effect to the provisions of the Bill. However, some income to the State shall accrue by levy of fees under Clause 5 of the Bill, which cannot be correctly worked out before hand.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 empowers the State Government, to make rules for carrying out the purposes of this Bill. These rules shall, as soon as may be after they are made, be laid before the Legislative Assembly. This delegation is essential and normal in character.

Simla-171004, the 23rd December, 1977

No. 1-65/77-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Bhoodan Yagna Bill, 1977 (Bill No. 18 of 1977) after having been introduced in the Assembly on the 23rd December, 1977 is hereby published in the Gazette.

THE HIMACHAL PRADESH BHOODAN YAGNA ACT, 1977

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to facilitate activities in connection with the Bhoodan Yagna initiated by Shri Acharya Vinoba Bhave, to provide for the constitution for a Bhoodan Yagna Board, the donation of lands to the said Board, distribution of lands received in donation to landless persons as also their utilisation for community purposes and for purposes connected with the matters aforesaid.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India as follows:—

CHAPTER I

1. (1) This Act may be called the Himachal Pradesh Bhoodan Yagna Act, 1977.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) "Bhoodan Yagna" means the movement initiated by Shri Acharya Vinoba Bhave, for the acquisition of lands through voluntary gifts in favour of the Board;

(b) "Board" means the Bhoodan Yagna Board established under section 3;

(c) "community purpose" means any purpose which is for the good of the community of the village in general;

(d) "landless person" means a person holding no land or landless than one acre in the capacity of either owner, tenant or a lessee;

(e) "Revenue Officer" means a Revenue Officer appointed under the Himachal Pradesh Land Revenue Act, 1953, and such other officer as the State Government may, by notification, appoint to discharge the functions of a Revenue Officer under this Act;

(f) "prescribed" means prescribed by rules made under this Act; and

(g) all other words and expressions used in the Act, but not defined therein, shall have the meanings respectively assigned to them under the Himachal Pradesh Tenancy and Land Reforms Act, 1972.

CHAPTER II

Establishment incorporation and duties of Bhoodan Yagna Board.

3. (1) There shall be established a Board by the name of the Himachal Pradesh Bhoodan Yagna Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal with power to acquire and dispose of property both movable and immovable and shall by the said name, sue and be sued.

(3) It shall be the duty of the Board to administer all lands vested in it for the benefit of the Bhoodan Yagna in accordance with the provisions of this Act and the rules made thereunder.

Constitution of the Board.

4. (1) The Board shall consist of the Chairman and four or more but not exceeding eight, members to be nominated by the State Government.

(2) The nomination or appointment of the Chairman and of the members shall be notified in the Official Gazette.

(3) The Chairman and the members of the Board shall hold office for four years from the date of the notification under sub-section (2) and shall be eligible for re-appointment or re-nomination:

Provided that the Chairman or any member of the Board may, at any time, resign his office by submitting his resignation in writing to the State Government but no such resignation shall take effect until it is accepted:

Provided further that the State Government may remove from office the Chairman or any member of the Board who, in the opinion of the State Government, has failed to perform or is unable to carry out his duties or has abused his position as a Chairman or member detrimental to the interest of the public.

(4) The Board may delegate any of its powers and functions under this Act, except the power to make regulations under section 30, to any member or to a sub-committee of three or more of its members.

Dissolution of the Board.

5. (1) If at any time the State Government is satisfied that—

- (a) the Board has failed without reasonable cause or excuse to discharge duties or to perform functions imposed or assigned by or under this Act,
- (b) circumstances have so arisen that the Board is rendered unable or may be rendered unable to discharge duties or to perform functions imposed or assigned by or under this Act, or
- (c) it is otherwise expedient or necessary to dissolve the Board,

it may, by notification in the Official Gazette,—

- (i) dissolve the Board for the period to be specified;
- (ii) direct the reconstitution of the Board in accordance with the provisions of section 4 of this Act; and
- (iii) declare that the duties, powers and functions of the Board under this Act shall, for the period for which it has been

dissolved, he discharged, exercised and performed by such person or authority and subject to such restrictions as may be specified therein.

(2) The State Government may make such incidental and consequential provisions as may appear to it to be necessary for this purpose.

6. The method of filling up vacancies in the Board, procedure of its working and the conduct of its business shall be such as may be prescribed.

Vacancies in the Board.

7. Anything done or any proceedings taken under this Act, shall not be questioned on account of the existence of any vacancy in the Board or any defect or irregularity in the nomination of the Chairman or any member of the Board.

Validity of proceedings.

8. The Board may in the prescribed manner appoint such officers and servants as it considers necessary for the efficient performance of its functions.

Appointment of officers and servants.

9. The remuneration and other conditions of service of the officers and servants of the Board shall be such as may be determined by regulations made in this behalf by the Board.

Conditions of service of officers and servants.

10. The Board shall have its own fund and may accept grants, donations, gifts or loans from the Central or the State Governments or any local authority or any individual or body of persons, whether incorporated or not, for all or any of the purposes of this Act.

Board's fund.

11. All property, fund and other assets vesting in the Board shall be held and applied by it in accordance with the provisions of this Act and the rules made thereunder.

Application of funds.

12. (1) The Board may, for any tehsil where it considers necessary so to do, constitute tehsil committees consisting of not less than three and not more than seven members to be appointed by the Board.

Tehsil committees.

(2) The tehsil committee may delegate any of its powers and functions under this Act to any member or to a sub-committee of three or more of its members.

CHAPTER III

13. (1) Notwithstanding anything to the contrary contained in any law, for the time being in force, any person owning a transferable interest in the land, may donate and grant such land to the "Bhoodan Yagna" by declaration in writing in that behalf (hereinafter called the Bhoodan declaration) in the manner prescribed.

Donation of land to Bhoodan Yagna.

(2) The Bhoodan declaration shall be filed with the Board as soon as it is made:

Provided that if the value of the land described in the Bhoodan declaration, comes to or exceeds Rs. 50,000 on the basis of market price to be calculated in the prescribed manner, the Bhoodan declaration shall not be considered as acceptable, unless the donor of such land produces a certificate signed by an Income Tax Officer, or other such authority having competent

jurisdiction, to the effect that nothing was due from such donor on account of income-tax or an arrear thereof, on the day of making such donation.

(3) The Board shall, if it considers the gift acceptable, forward the declaration to the Revenue Officer having jurisdiction in the tehsil where the land is situate.

(4) On receipt of the declaration mentioned in sub-section (1), the Revenue Officer shall, if satisfied, after such enquiry as he thinks necessary, that the donor is competent to make the gift and has valid title in the land, issue a notice in the prescribed form to such persons as he may consider interested in the property calling upon them, before a date specified in the notice, to show cause why the gift should not be accepted.

(5) The Revenue Officer shall also affix a copy of the notice referred to in sub-section (4) on the notice-board of his court and shall cause it to be published by beat of drum in the village where the land is situate.

(6) Any person interested in the property may, before the date specified in the notice, file objections before the Revenue Officer showing cause why the gift should not be accepted.

(7) All such objections shall be enquired into and decided by the Revenue Officer.

(8) If no objection is filed before the specified date, or if all the objections filed have been rejected by the Revenue Officer, he shall pass an order accepting the gift on behalf of the Board.

(9) On the acceptance of the gift, all title and interest of the donor in the land shall be extinguished and the land shall vest in the Board in the same rights in which it was held by the donor.

(10) The Revenue Officer may, at any stage of the proceedings, reject the offer of the donor on any of the following grounds, namely:—

- (i) that the donor is incompetent to make the gift;
- (ii) that the title of the donor is defective;
- (iii) that there are encumbrances on the land; and
- (iv) such other grounds as may be prescribed.

Land which cannot be donated.

14. (1) Notwithstanding anything contrary contained in any law, for the time being in force, an owner shall not, for purposes of this Act, be competent to donate—

- (a) land recorded or by usage treated as pasture, cremation or burrial ground, tank, path way or thrashing floor; and
- (b) such other land as the State Government may, by notification in the Official Gazette, specify.

(2) The holder of a life-estate shall be competent to donate only his life interest therein.

Land donated prior to the commencement of this Act.

15. (1) Where any land has been donated for purposes of the Bhoodan Yagna prior to the commencement of this Act the Board shall prepare a list of all such land showing therein:—

- (a) the area and description;
- (b) the name of the donor;
- (c) the nature of the interest of the donor in the land;
- (d) if the land has been granted to any person in pursuance of the Bhoodan Yagna, the name of person to whom the land has been granted;
- (e) the date of the grant under clause (d); and
- (f) such other particulars as may be prescribed.

(2) The list so prepared shall be forwarded to the Deputy Commissioner of the district within whose jurisdiction the land is situate.

(3) On receipt of such list, the Deputy Commissioner shall cause action to be taken in accordance with section 13 in respect of the lands described in the list.

(4) The provisions of sections 13 to 17 shall apply in respect of all the donations of the said lands as they apply in respect of all donations of lands made after the commencement of this Act:

Provided that where an order is made by a Revenue Officer under sub-section (7) of section 13 the gift shall be deemed to have been accepted with effect from the date on which the donation of land was made and for this purpose this Act shall be deemed to have been in force on such date.

(5) If any land of which donation so received before the commencement of this Act has already been granted to any person in pursuance of the Bhoodan Yagna, it shall be deemed to have been granted by the Board to such person on the date on which such person takes possession thereof and the grant shall be subject to all liabilities to which any grants made by the Board in general shall be subject.

(6) Notwithstanding the provisions of any law to the contrary, a tenant holding land directly from the State Government shall for the purpose of this Chapter, be deemed to be owning a transferable interest in such land.

16. Every gift of land in respect of which an order has been passed under section 13, shall after the date of the order, be irrevocable.

Declaration to be irrevocable.

17. The land vesting in the Board shall not be liable to attachment or sale in execution of any decree or order passed by a Civil Court against the Board.

The land vesting in the Board not attachable.

CHAPTER IV

DISTRIBUTION OF LAND

18. The Board or such other authority or persons as the Board may, with the approval of the State Government, specify either generally or in respect of any area, in the manner prescribed, grant land which has vested in it to a landless person and the allottee shall not have, and shall not be entitled to claim any rights in such land except as provided in this Act:

Grant of land to landless persons.

Provided that not less than one fifth of the land vested in the Board and earmarked for distribution under this section, shall be distributed amongst

the persons belonging to scheduled castes and not less than one twentieth of such land, shall be distributed amongst persons belonging to scheduled tribes.

Grants,
transfers
and allot-
ments for
the purpose
of Bhoodan
Yagna.

19. All grants, transfers and allotments shall be made, as far as the case may be, in accordance with the purpose of Bhoodan Yagna.

CHAPTER V

MISCELLANEOUS

Exemption
from stamp
duty and
registra-
tion.

20. Notwithstanding anything to the contrary contained in any law for the time being in force, the acceptance of a gift under section 13 or a grant of land made or deemed to have been made under provisions of this Act, shall be and shall be deemed always to have been exempt from:—

- (a) payment of stamp duty; and
- (b) registration or attestation under the law relating to registration and execution of documents.

Power to
remit land
revenue.

21. (1) The State Government may, if it is satisfied that the Board has not been able to grant the land in any year, remit the land revenue or rent due on the land for that year.

(2) The State Government may, by notification, direct that the powers conferred on it under sub-section (1) shall, subject to such conditions which may be specified, be exercisable by any officer not below the rank of Deputy Commissioner.

Power to
evict allot-
tee.

22. If a person to whom land has been allotted under the provisions of section 18—

- (i) makes a breach of any of the terms and conditions subject to which allotment has been made; or
- (ii) furnishes any information which is false or which he knows or believes to be false or which he does not believe to be true; or
- (iii) fails to pay any dues in respect of the land allotted to him; or
- (iv) fails without sufficient cause to cultivate such land (if the land has been allotted for cultivation purposes) for two consecutive years; or
- (v) fails to deliver back the possession of the land to the Board or the Gram Sabha, as the case may be, after the expiry of the term of the allotment;

the Board may make an application to the prescribed authority for cancelling the allotment and thereupon the prescribed authority may, after making such inquiry as it deems fit and after giving the allottee an opportunity to be heard, cancel the allotment and restore possession of the land to the Board after ejecting the allottee or any other person found in possession of the land:

Provided that in the case of ejectment of an allottee on the grounds mentioned under clause (ii) of this section, such allottee shall also be liable to pay a penal rent at the rate of fifty rupees per bigha, in respect of the land allotted to him and such rent shall be recoverable as arrears of land revenue.

23. (1) The State Government may, by notification and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

Powers to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules,—

- (a) prescribing the form of declaration under sub-section (1) of section 13 for submitting a declaration to make a gift of land;
- (b) prescribing the form of notice under sub-section (4) of section 13 calling upon persons to show cause why a gift of land should not be accepted;
- (c) stating other grounds under item (iv) of sub-section (10) of section 13 for rejecting the offer to make a gift;
- (d) prescribing other particulars under clause (f) of sub-section (1) of section 15;
- (e) prescribing the procedure for making the bye-laws by the Board under section 30; and
- (f) any other matter which is to be or may be prescribed under this Act.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or two successive sessions, and if, before the expiry of the session in which it is so laid or the session, immediately following, the Legislature requires any modification in the rule or desires that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

24. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions (not inconsistent with the provisions of this Act) as appears to it to be necessary or expedient for the removal of the difficulty.

Power to remove difficulties.

25. Any person in possession of the land on the date of the order passed under section 22 and any person who takes possession, otherwise than in accordance with law, of the land received in donation for purposes of the Bhoodan Yagna may, on application to a Revenue Officer by the Board or the allottee concerned, be ejected. For such ejections the provisions of section 163 of the Himachal Pradesh Land Revenue Act, 1953, shall apply.

Ejection of persons in unlawful possession.

26. (1) If the land gifted to the Board forms a part of a holding, the Board or the allottee concerned may apply to a Revenue Officer for possession and the Revenue Officer may, notwithstanding any law to the contrary, partition the holding and demarcate the land and apportion the rent or the land revenue, as the case may be.

Partition of holdings.

(2) If there are any arrears of rent or revenue, as the case may be, on the holding partitioned under sub-section (1), the Revenue Officer shall determine the portion of the arrears due on the part of the holding gifted

to the Board and thereupon the Board and the allottee shall be liable to pay the portion of the arrears so determined and notwithstanding anything contained in Himachal Pradesh Land Revenue Act, 1953, the Board or the allottee shall not be liable for the arrears in respect of the remaining part of the holding.

6 of 1954

Powers to make contract.

27. The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

Jurisdiction of civil courts barred.

28. No action taken or order passed, before or after the commencement of this Act, by the Revenue Officer or any authority under the provisions of this Act shall be called in question by any court or authority.

Procedure.

29. The proceedings under this Act, shall be deemed for all purposes to be proceedings under the Himachal Pradesh Land Revenue Act, 1953, and the procedure applicable to proceedings under the said Act shall be followed by the Revenue Officer.

6 of 1954

Power to make bye-laws.

30. The Board may, subject to the prior approval of the State Government, by notification in the Official Gazette, make regulations for the purpose of carrying out the duties conferred on it by this Act, or in respect of any matter supplementary or incidental thereto, and the bye-laws so made shall be published by the Board in the manner prescribed.

Repeal and savings.

31. (1) The Himachal Pradesh Bhoodan Yagna Act, 1954, as in force in the areas comprised in Himachal Pradesh immediately before the 1st November, 1966 and the Punjab Bhoodan Yagna Act, 1955, in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, and the Himachal Pradesh Shoodan Yagna Act, 1977 are hereby repealed.

2 of 1955

45 of 1956

31 of 1966

5 of 1977

(2) Anything done, action taken, land donated and distributed, board established, rules made, and notifications issued in exercise of the powers conferred by or under the provisions of the Acts and Ordinance repealed under sub-section (1) to the extent of their being consistent with the provisions of this Act, shall be deemed to have been done, donated, distributed, established, made or issued in exercise of the powers conferred by or under this Act, as if this Act, was in force on the day on which such thing was done, action taken, land donated and distributed, board established rules, made or notifications issued.

STATEMENT OF OBJECTS AND REASONS

As a result of the transfer of hilly areas to Himachal Pradesh on the re-organisation of the erstwhile State of Punjab, there have been in force in Himachal Pradesh two different laws regulating the land donations under the Bhoodan Yagna movement initiated by Acharya Vinoba Bhave viz, the H.P. Bhoodan Yagna Act, 1954, as in force in the areas comprised in Himachal Pradesh, immediately before the 1st November, 1966 and the Punjab Bhoodan Yagna Act, 1955, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. With a view to bring uniformity in regard to this law, a proposal had been under consideration of this Government. But the said proposal has been kept in abeyance, for the reason that the Unification of Laws Committee recommended that till a process of legislation on land reforms was completed, these enactments should be allowed to continue.

After the enforcement of the new land reforms laws, the old proposal was taken up and all codal formalities relating thereto were accomplished. Since the Legislative Assembly was not in session and the circumstances existed, which rendered it necessary for the Governor to promulgate the H. P. Bhoodan Yagna Ordinance, 1977 (Ordinance No. 5 of 1977) on 19th October, 1977.

Now this Bill is required to be replaced by a regular enactment.

This Bill seeks to replace the aforesaid Ordinance without any modification.

JAGDEV CHAND,
Minister-in-Charge.

SIMLA:
The 23rd December 1977.

FINANCIAL MEMORANDUM

The proposed Bill contains provisions for the Constitution of Bhoodan Yagna Board and the Tehsil Committees. This Board and the Committees will create their own funds for meeting their day-to-day expenditure. There is no financial liability of the Government in this regard.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 23 of the Bill empowers the State Government to make rules in respect of the matter enumerated therein. The rules shall be subject to previous publication and as and when these are made, these shall be laid before the Legislative Assembly.

Further clause 30 empowers the Board to make bye-laws for the discharge of its duties conferred upon it by the Act.

This delegation is essential and normal in character.

Simla-171 004, the 23rd December, 1977

No. 1-68/77-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh State Legislature Proceedings (Protection of Publication) Bill, 1977 (Bill No. 19 of 1977), after having been introduced in the Assembly on the 23rd December, 1977, is hereby published in the Gazette.

Bill No 19 of 1977.

**THE HIMACHAL PRADESH STATE LEGISLATURE PROCEEDINGS
(PROTECTION OF PUBLICATION) BILL, 1977**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to protect the publication of reports of proceedings of the Himachal Pradesh State Legislature.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh State Legislature Proceedings (Protection of Publication) Act, 1977.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. In this Act “newspapers” means any printed periodical work containing public news or comments on public news, and includes a news agency supplying material for publication in a newspaper.

Definition.

3. (1) Save as otherwise provided in sub-section (2), no person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of the Himachal Pradesh State Legislature, unless the publication is proved to have been made with malice.

Publication
of reports
of Himachal
Pradesh
State Legis-
lature pro-
ceedings
privilege.

(2) Nothing in sub-section (1) shall be construed as protecting the publication of any matter, the publication of which is not for the public good.

4. The Act shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station as it applied in relation to reports or matters published in a newspaper.

Act also to
apply to
Himachal
Pradesh
State Legis-
lature pro-
ceedings
broadcast
by wireless
telegraphy.

STATEMENT OF OBJECTS AND REASONS

The Central Government has enacted a law which provides that no person shall be liable to any proceedings, civil or criminal, in any court in respect of the publication in a newspaper of a substantially true report of any proceedings of either House of Parliament, unless the publication is proved to have been made with malice. On the lines of the Central Legislation it is proposed that immunity be also given to the press in the matter of coverage of the Himachal Pradesh State Legislature's proceedings. This Bill seeks to achieve this aim.

SIMLA:

SHANTA KUMAR,
Chief Minister.

The 23rd December, 1977.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

Simla-171004, the 23rd December, 1977

No. 1-64/77-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Abolition of Land Revenue on Un-Economic Holdings Bill, 1977 (Bill No. 20 of 1977) after having been introduced in the Assembly on the 23rd December, 1977 is hereby published in the Gazette.

V. P. BHATNAGAR,
Secretary.

Bill No. 20 of 1977.

**THE HIMACHAL PRADESH ABOLITION OF LAND REVENUE
ON UN-ECONOMIC HOLDINGS BILL, 1977**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for abolition of land revenue on un-economic holdings in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Abolition of Land Revenue on Un-economic Holdings Act, 1977.

Short title,
and com-
mencement.

(2) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “land holding” means the total land in the State in possession of a person whether as owner, mortgagee, lessee, tenant or in any other lawful capacity and if such a person holds land jointly with others, his share in such holding;

(b) “un-economic holding” means a land holding which does not exceed two and a half acres and comprises of unirrigated cultivated land or of such land which has been recorded as “banjar kadim”, “banjar jadid” or grass lands, by whatever name called i.e. “ghas-nis”, “kharetars”, “rutas” etc. but does not include land under orchards or built up areas, assessed to land revenue;

(c) all other terms and expressions used herein but not defined in this Act, shall have the same meaning as assigned to them in Himachal Pradesh Land Revenue Act, 1953.

6 of 1954

6 of 1954

3. Notwithstanding anything contained in the Himachal Pradesh Land Revenue Act, 1953, the land revenue on un-economic holdings shall stand abolished from Rabi 1977; and, the landowner who at the commencement of this Act holds un-economic holding shall not be liable to pay any land revenue in respect of his land holding to the State.

Abolition
of land
revenue on
un-economic
holdings.

4. (1) All transfers of land made after the 4th day of July, 1977, except the transfer of land made to the Union Government or to the State Government or a bonafide transfer by a land holder or any transfer of land by operation of law, to defeat the purpose of the Act, shall not affect the liability of the landholder to pay the land revenue to the State.

Bar on cer-
tain trans-
fers.

(2) The Collector of the District in which such transfer or transfers take place, shall determine whether a transfer is bonafide or not and his decision shall be final.

Power to
remove
difficulty.

5. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order to be published in the Official Gazette, or otherwise, make such provisions, or give such directions, not inconsistent with this Act, as may appear to it to be necessary or expedient for the removal of such difficulty.

Repeal and
savings.

6. (1) The Himachal Pradesh Abolition of Land Revenue on Un-economic Holdings Ordinance, 1977 is hereby repealed.

4 of

(2) Notwithstanding such repeal, anything done or any action taken under the aforesaid Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act as if this Act was in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

It was announced on behalf of the Government on the Floor of the Legislative Assembly, during its last session that they would abolish land revenue on (un-economic) holdings upto two and half acres. Pursuant to this policy announcement, steps were taken to work out all the modalities necessary to translate the same into action.

2. All the formalities having been completed, it was found that a regular law would not be possible early since the Vidhan Sabha was not in session nor was it likely to meet in appreciably near future at that time. In the mean time, the next frequency of collection of land revenue was fast advancing. That would have delayed the desired relief to the farmers by another six months, *i. e.* a complete harvest. In view of these circumstances, the Governor of Himachal Pradesh, having been satisfied that there existed the circumstances which rendered it necessary for him to take immediate action, promulgated the Himachal Pradesh Abolition of Land Revenue on Un-economic Holdings, Ordinance, 1977 (Ordinance No. 4 of 1977) on the 19th October, 1977. This Ordinance is now required to be replaced by the regular enactment.

3. The "Collector of District" has been referred to as the "Collector of sub-division", inadvertently, in sub-clause (2) of clause 4 of the Ordinance. The reference is required to be corrected.

4. Besides in the Ordinance, there is no provision authorising the State Government to issue directions to the field staff for the implementation of the Legislation. It is, therefore, proposed to make provision empowering the Government to issue such directions as and when necessary.

Further more, at present the Ordinance does not contain an express provision excluding the land under the "orchards" and the "built up areas" from the purview of the Ordinance. This is necessary and a provision is accordingly required to be made.

This Bill seeks to replace the above Ordinance with modifications.

JAGDEV CHAND,
Minister-in-charge.

SIMLA:
The 23rd December, 1977.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for abolition of land revenue on un-economic holdings with effect from Rabi, 1977. According to the tentative estimates, a sum of about Rs. 8,00,000 is likely to be waived off on account of land revenue and surcharge thereon, consequent upon this proposal.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[Revenue Deptt. File No.Rev. 2. A (3)-7/77]

The Governor, Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Abolition of Land Revenue on Un-economic Holdings Bill, 1977, recommends under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 5 of the Bill empowers the State Government to remove difficulties in the implementation of the provisions of the Bill by making an order, not inconsistent with the provisions of the Bill. This delegation is essential and normal in character.

Simla-171004, the 23rd December, 1977

No. 1-59/77-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly, 1973, the Public Wakfs (Extension of Limitation) (Himachal Pradesh Amendment) Bill, 1977 (Bill No. 21 of 1977) after having been introduced in the Assembly on the 23rd December, 1977 is hereby published in the Gazette.

V. P. BHATNAGAR,
Secretary.

Bill No. 21 of 1977.

**THE PUBLIC WAKFS (EXTENSION OF LIMITATION)
(HIMACHAL PRADESH AMENDMENT) BILL, 1977**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

*further to amend the Public Wakfs (Extension of Limitation) Act, 1959
(Act No. 29 of 1959) in its application to the State of Himachal Pradesh.*

BE it enacted by the Legislative Assembly of Himachal Pradesh
in the Twenty-eight Year of the Republic of India as follows:—

1. (1) This Act may be called the Public Wakfs (Extension of
Limitation) (Himachal Pradesh Amendment) Act, 1977.

Short title,
extent and
commence-
ment.

(2) It extends to whole of the State of Himachal Pradesh.

(3) It shall be deemed to have come into force with effect from
the 1st day of January, 1975.

2. In section 3 of the Public Wakfs (Extension of Limitation) Act,
1959, in its application to the State of Himachal Pradesh, for the
words, figures and letters "the 31st day of December, 1974" occurring
therein, the words, figures and letters, "the 31st day of December, 1978"
shall be substituted.

Amendment
of section
3 of Central
Act No. 29
of 1959.

3. (1) The Public Wakfs (Extension of Limitation) (Himachal
Pradesh Amendment) Ordinance, 1977, is hereby repealed.

Repeal and
savings.

(2) Notwithstanding such repeal, anything done or any action taken
under the said Ordinance shall be deemed to have been done or taken
under this Act, as if this Act had come into force on 27th day of
September, 1977.

STATEMENT OF OBJECTS AND REASONS

For ejectment and restoration of Wakf Properties in the State from encroachment and un-authorised occupation, it is necessary to seek legal remedy in the courts. In order, therefore, to enable the Wakf Board for filing suits and their further prosecution in the courts of law, the Public Wakfs (Extension of Limitation) Act, 1959 passed by the Parliament is required to be extended. The Public Wakfs (Extension of Limitation) Act, 1959 continued to be extended upto 31-12-1970 by the Central Government beyond which such an extension was left to the discretion of the respective State Governments and this Government last extended the application of the aforesaid Act upto 31-12-1974. In spite of extension of limitation for institutions of suits upto 31-12-1974, by this Government, there are still large number of properties regarding which suits for ejectment and restoration etc., could not be instituted. In order to enable the Wakf Board and other interested persons to institute suits, the limitation is proposed to be extended upto 31-12-1978. Since the Himachal Pradesh Legislative Assembly was not in session and the circumstances existed which rendered it necessary for the Governor to take immediate action under Article 213 of the Constitution of India, the Public Wakfs (Extension of Limitation) (Himachal Pradesh Amendment) Ordinance, 1977 (3 of 1977) was promulgated on 27th September, 1977. Now the said Ordinance is required to be replaced by a regular enactment.

This Bill seeks to replace the aforesaid Ordinance without any modification.

SIMLA :
The 23rd December, 1977.

SHANTA KUMAR,
Chief Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING THE DELEGATED LEGISLATION

Nil

रजिस्टर्ड नं० एस० एम० 14



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 31 दिसम्बर, 1977/10 पौष, 1899

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATIONS

Simla-171004, the 23rd December, 1977

No. 1-61/77-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Urban Estates (Development